

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

-against-

**ROBERT J. MUELLER, DEEPROOT FUNDS
LLC (a/k/a dprt Funds, LLC), AND POLICY
SERVICES INC.,**

Defendants,

-and-

**DEEPROOT TECH LLC, DEEPROOT
PINBALL LLC, DEEPROOT STUDIOS LLC,
DEEPROOT SPORTS & ENTERTAINMENT
LLC, AND DEEPROOT RE 12621 SILICON DR
LLC,**

Relief Defendants.

Civil Action No.: 5:21-cv-785-XR

**APPENDIX AND DECLARATION IN SUPPORT OF PLAINTIFF
SECURITIES AND EXCHANGE COMMISSION'S MOTION FOR
FINAL JUDGMENT AND REMEDIES AGAINST DEFENDANT MUELLER**

I, Charlie Divine, pursuant to 28 U.S.C. § 1746(2), do hereby declare under penalty of perjury the following:

1. I am Trial Counsel to the Securities and Exchange Commission (the “SEC”) and I am appearing for the SEC in this case. As such, I am familiar with the facts and circumstances of this matter.
2. Prior to filing the Complaint in this matter, the SEC conducted an investigation. During that investigation the SEC gathered publicly available documents and subpoenaed documents, materials, and testimony from relevant parties. The documents and other materials the SEC received were produced in various formats, including electronically, in paper, and by emailed PDF, among others. After filing the Complaint, using the tools of civil discovery, the SEC gathered additional documents and other materials, and took deposition testimony.

3. I and my colleagues at the SEC have been directly involved with the collection of documents and other materials in the litigation in this matter.
4. Except to Bates label certain documents, redact personally identifiable information, and excerpt pages from voluminous documents, the SEC has not in any way altered the substance of the documents received.
5. Attached hereto as **Exhibit 1** is a transcript of the May 28, 2024, Status Conference in this matter.
6. Attached hereto as **Exhibit 2** is a September 24, 2024, declaration by Jeffrey R. Anderson and Appendixes in support.
7. Attached hereto as **Exhibit 3** is Deposition Exhibit 6, a true and correct copy of a January 1, 2021, Private Placement Memorandum from deeproot 575 Fund, LLC, Bates labelled SEC-DEEPROOT-E-0211514-30.
8. Attached hereto as **Exhibit 4** is Deposition Exhibit 5, a true and correct copy of a September 16, 2019, Private Placement Memorandum from deeproot 575 Fund, LLC, Bates labelled SEC-DEEPROOT-E-0164824-41.
9. Attached hereto as **Exhibit 5** is a true and correct copy of a September 1, 2015, Private Placement Memorandum from deeproot 575 Fund, LLC, Bates labelled SEC-DEEPROOT-E-0164808-23.
10. Attached hereto as **Exhibit 6** is a true and correct copy of a September 16, 2019, Private Placement Memorandum for deeproot Growth Runs Deep Fund, LLC, Bates labelled SEC-DEEPROOT-E-0014497-512.
11. Attached hereto as **Exhibit 7** is Deposition Exhibit 100, a true and correct copy of a September 16, 2019, Private Placement Memorandum for deeproot Growth Runs Deep Fund, LLC, Bates labelled SEC-DEEPROOT-E-0164762-80.
12. Attached hereto as **Exhibit 8** is Deposition Exhibit 99, a true and correct copy of an August 3, 2015, Private Placement Memorandum from deeproot Growth Runs Deep Fund, LLC, Bates labelled SEC-DEEPROOT-E-0164786-803.
13. Attached hereto as **Exhibit 9** is Deposition Exhibit 98, a true and correct copy of an August 3, 2015, Private Placement Memorandum from deeproot Growth Runs Deep Fund, LLC, Bates labelled SEC-DEEPROOT-E-0013399-416.
14. A true and correct copy of **Exhibit 10** is excerpts of a true and correct copy of the June 23-24, 2021, SEC investigative testimony of Robert Mueller.
15. Attached hereto as **Exhibit 11** is Deposition Exhibit 37, a March 20, 2017, email chain between Defendant Mueller and Gerald Wik with the subject “RE: Updated Files 3.20.2017,” Bates labelled SEC-DEEPROOT-E-0210796-800.

16. Attached hereto as **Exhibit 12** is Deposition Exhibit 38, a true and correct copy of a document titled “INVESTMENT ALLOCATION AGREEMENT,” Bates labelled SEC-DEEPROOT-E-0213963-66.
17. Attached hereto as **Exhibit 13** are excerpts of the July 12, 2023, deposition of Dennis J. Concilla.
18. Attached hereto as **Exhibit 14** is a true and correct copy of a September 10, 2024, declaration by Brad A. Leon.
19. Attached hereto as **Exhibit 15** is a true and correct copy of a September 13, 2024, declaration by Charles R. McClain.
20. Attached here to as **Exhibit 16** is a true and correct copy of a September 7, 2024, declaration by Brenda Jennings.
21. Attached hereto as **Exhibit 17** is a true and correct copy of a September 25, 2022, declaration by Robert Kane, Bates labelled SEC-SEC-E-0002906-09.
22. Attached hereto as **Exhibit 18** is a true and correct copy of a September 15, 2022, declaration by Sandra S. Thompson, Bates labelled SEC-SEC-E-0002511.
23. Attached hereto as **Exhibit 19** is a true and correct copy of an October 9, 2022, declaration by John Gray, Bates labelled SEC-SEC-E-0002959-62.
24. Attached hereto as **Exhibit 20** is a true and correct copy of an October 18, 2022, declaration by James Donnelly, Bates labelled SEC-SEC-E-0002984-87.
25. Attached hereto as **Exhibit 21** is a true and correct copy of a September 11, 2024, declaration by Carlotta Grice.
26. Attached hereto as **Exhibit 22** are excerpts from the transcript of the November 28, 2023, Pretrial Conference in this matter.
27. Attached hereto as **Exhibit 23** are excerpts from the March 9, 2023 deposition of Robert J. Mueller.
28. Attached hereto as **Exhibit 24** is a true and correct copy of the Answer of defendants Carlile Patchen & Murphy, LLP, Dennis J. Concilla, and Andrew Federico to Plaintiff’s First Amended Complaint in the matter of *In re John Patrick Lowe, Chapter 7 Trustee for the Bankruptcy Estate of deeproot Capital Management, LLC, et al. v. Carlile Patchen & Murphy, LLP, Dennis J. Concilla and Andrew J. Federico* (Bkr. No. 23-05089-MMP), in the United States Bankruptcy Court for the Western District of Texas.
29. Attached hereto as **Exhibit 25** is a true and correct copy of a document titled “deeproot Family of Companies Investment Portfolio Narrative 2020.B2,” Bates labelled SEC-DEEPROOT-E-0013223-36.

30. Attached hereto as **Exhibit 26** is a true and correct copy Plaintiff's Request for Production of Documents from Defendant Robert J. Mueller Relating to Remedies in this matter.
31. Attached hereto as **Exhibit 27** is a true and correct copy of a document titled "CONTINGENT PLEDGE AND SECURITY AGREEMENT," and Bates labelled SEC-DEEPROOT-E-0213967-97.
32. Attached hereto as **Exhibit 28** is a true and correct copy of an Order Authorizing and Approving the Sale of Certain Personal Property Free and Clear of All Interests Pursuant to 11 U.S.C. §§ 363(b) and (f), in the matter of *In re deeproot Capital Management, LLC* (Bkr. No. 21-51523-MMP), *et al.*, and *In re Policy Services, Inc.* (Bkr. No. 21-51513-MMP), in the United States Bankruptcy Court for the Western District of Texas.
33. Attached hereto as **Exhibit 29** is a true and correct copy of Deposition Exhibit 43, a document titled "OPERATING AGREEMENT OF deeproot 575 Fund, LLC," Bates labelled MUELLER 001067-88.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 27, 2024

Respectfully submitted,

/s/ Charlie Divine
Charlie Divine
SECURITIES AND EXCHANGE COMMISSION
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Washington, DC 20549
(202) 551-6673 (Divine)
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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I certify that on September 27, 2024, a true and correct copy of the foregoing document was filed electronically through the Court's CM/ECF system, which will send copies to all counsel of record.

/s/ Charlie L. Divine
Charlie L. Divine

*Counsel for Plaintiff United States Securities
and Exchange Commission*